



North Carolina Department of Administration

Michael F. Easley, Governor
Britt Cobb, Secretary

N.C. Commission of Indian Affairs
Gregory A. Richardson, Executive Director

August 26, 2008

Chief Leon Locklear
Tuscarora Nation of North Carolina, Inc.
288 Tuscarora Nation Road
Maxton, North Carolina 28364

RE: State Recognition

Dear Chief Locklear:

This is to notify you that the North Carolina Commission of Indian Affairs is prepared to proceed with the formal recognition process of your group. The recognition procedures in effect prior to April 1, 1999 will be applicable to the recognition process for your group. Please respond to our office in writing within 30 days of receipt of this letter, and notify us of your group's interest and intent in continuing with the official state recognition process at this time.

In the past we have written to your group acknowledging receipt of correspondence expressing your notice of intent to petition the State for official recognition as an American Indian tribe. On June 26, 2003 we wrote to you regarding documentation submitted by your group on June 3 of that year; more specifically, we inquired as to whether the documentation submitted was your petition in its entirety or would your group be submitting additional documentation. In the June 26, 2003 correspondence, and again on September 8, 2003, March 17, 2004, and October 25, 2005 we informed you that the commission was currently in the recognition process with other groups that had submitted documentation prior to that received from you. We agreed that upon the disposition of those petition cases, we would notify you of our readiness to proceed with your group. On June 6, 2008 the North Carolina Commission of Indian Affairs' Recognition Committee Chairman reported to the full commission that the committee was prepared to move forward with the tribal recognition process with your group.

Authorized by the North Carolina General Assembly at G.S. 143B-406, the North Carolina Commission of Indian Affairs processes petitions for state recognition according to the established state recognition procedures under Title I, Chapter 15 of the North Carolina Administrative Code. Although the recognition procedures have been revised since our last communication with you, the administrative rules in effect at the time of our acknowledged receipt of your Notice of Intent to Petition will apply in your case. A copy of these rules is attached.

Mailing Address:
1317 Mail Service Center
Raleigh, N.C. 27699-1317

Telephone (919) 789-5900
Fax (919) 420-1373
State Courier #56-20-51

Location:
100 East Six Forks Road
Raleigh, North Carolina

SECTION .0200 - LEGAL RECOGNITION OF INDIAN GROUPS

.0201 AUTHORIZATION

The North Carolina Commission of Indian Affairs is authorized to establish procedures to provide for the legal recognition of presently unrecognized Indian groups.

History Note: Authority G.S. 143B-406;
Eff. November 1, 1976.

.0202 ORGANIZATIONAL ASSISTANCE

When a group of Indians has identified themselves they shall request organizational assistance from the Commission. The Commission shall then explain organizational options to this group and assist them in developing a representative tribal organization.

History Note: Authority G.S. 143B-406;
Eff. November 1, 1976;
Amended Eff. April 1, 1999.

.0203 TRIBAL ORGANIZATIONAL OPTIONS

(a) Each group seeking recognition shall organize itself as an Indian tribe, as defined in 1 NCAC 15 .0208, and shall meet the criteria set out in 1 NCAC 15 .0209 and .0211. Methods of tribal organization acceptable to the Commission are:

- (1) to organize a private nonprofit corporation under the laws of North Carolina, or
- (2) to organize a tribal council.

(b) Once recognized by the Commission, the tribal organization may represent the group both locally and at the Commission level.

(c) The type of tribal organization shall be representative and give opportunity for all Indians in the area to be represented. When more than one group is involved, opportunity shall be given for all areas to be represented on either the tribal board of directors or the tribal council.

History Note: Authority G.S. 143B-406;
Eff. November 1, 1976;
Amended Eff. April 1, 1999.

.0204 PETITION FOR RECOGNITION

Once an acceptable method of tribal organization has been achieved the group may petition the Commission for recognition. The petition shall include name, number, location, origin and existing recognition.

History Note: Authority G.S. 143B-406;
Eff. November 1, 1976;
Amended Eff. April 1, 1999.

.0205 RECOGNITION

Once a petition for recognition has been filed it is reviewed by the commission. It may then, in its discretion, extend legal recognition by letter stating the services available to recognized tribes.

History Note: Authority G.S. 143B-406;
Eff. November 1, 1976.

.0206 SEATS ON THE COMMISSION

History Note: Authority G.S. 71-16;
Eff. November 1, 1976;
Repealed Eff. February 27, 1979.

.0207 PROCEDURE FOR RECOGNITION

The procedure to be followed for recognition shall be:

- (1) Petitioner submits a petition as set out in Rule .0204 of this Section to the Commission of Indian Affairs;
- (2) Commission certifies receipt and explains procedure to petitioner;
- (3) With assistance from the Commission, petitioner prepares a full application (may take up to one year), which is sent to the special committee on recognition;
- (4) Hearing before the special committee on recognition;
- (5) Decision is rendered by special committee on recognition;
- (6) If petitioner is not satisfied with the decision of the special committee on recognition, an appeal may be taken to the full Commission;
- (7) The decision by the full Commission shall be rendered by at least a two-thirds majority of Indian members;
- (8) If requested, an informal hearing shall be held before the full Commission;
- (9) If the decision is for recognition, the group is recognized as an Indian tribe by the state. If the decision is against recognition, petitioner may apply to the Office of Administrative Hearings for a formal hearing pursuant to G.S. 150B-23.

History Note: Authority G.S. 143B-406; 150B-23;
Eff. February 11, 1980;
Amended Eff. April 1, 1999; August 1, 1988.

.0208 TRIBAL DEFINITION

A petitioner may apply to be recognized as an "Indian tribe", defined as population of Indian people all related to one another by blood, tracing their heritage to Indian tribes indigenous to North Carolina within the last 200 years.

History Note: Authority G.S. 143B-406;
Eff. February 11, 1980;
Amended Eff. April 1, 1999; February 1, 1982.

.0209 CRITERIA FOR RECOGNITION AS A TRIBE

- (a) The criteria to be used in the decision whether to extend official state recognition as a tribe are:
- (1) traditional North Carolina Indian names;
 - (2) kinship relationships with other recognized Indian tribes;
 - (3) official records such as birth, church, school or other recognizing the people as Indian;
 - (4) letters or statements from state or federal authorities recognizing the people as Indian;
 - (5) anthropological or historical accounts tied to the group's Indian ancestry;
 - (6) letters or statements from presently recognized tribes or groups or their representatives attesting to the Indian heritage of the group;
 - (7) any other documented traditions, customs, legends, etc. that signify the group's Indian heritage;
 - (8) participation in or grants from sources or programs designated as for Indian only.
- (b) In addition to the criteria listed in Paragraph (a) of this Rule, the following are also relevant to the decision:
- (1) any other material or documents the group may wish to present;
 - (2) any other material or documents the Commission or special committee on recognition may request.
- (c) Five of the recognition criteria listed in Paragraph (a) of this Rule must be satisfactorily met to achieve state recognition.

History Note: Authority G.S. 143B-406;
Eff. February 11, 1980;
Amended Eff. April 1, 1999.

.0210 CRITERIA FOR RECOGNITION AS A GROUP OR ORGANIZATION

History Note: Authority G.S. 143B-406;
Eff. February 11, 1980;
Repealed Eff. April 1, 1999.

.0211 RECOGNITION REQUIREMENT

Only groups tracing back to Indian tribes indigenous to North Carolina at least for the last 200 years shall be considered for recognition by the Commission.

History Note: Authority G.S. 143B-406;
Eff. February 11, 1980;
Amended Eff. April 1, 1999.

.0212 COMMISSION ASSISTANCE TO PETITIONER

The Commission of Indian Affairs assistance to the petitioner will be limited to a full explanation of the procedure, informational requests, and limited technical advice.

History Note: Authority G.S. 143B-406;
Eff. February 11, 1980.

.0213 SPECIAL COMMITTEE ON RECOGNITION

A special committee on recognition will be established when the petition process is initiated. The committee will be appointed by the chairperson of the Commission of Indian Affairs from the present commission members who are Indians.

History Note: Authority G.S. 143B-406;
Eff. February 11, 1980.

.0214 TRIBAL ROLL

Each petitioning group must submit to the Commission a roll of its members as a condition to recognition. The roll shall list the names and addresses of the people and relate each one to their kinship ties. This roll must be submitted prior to the recognition decision of the Commission of Indian Affairs.

History Note: Authority G.S. 143B-406;
Eff. February 11, 1980;
Amended Eff. April 1, 1999; August 1, 1988.

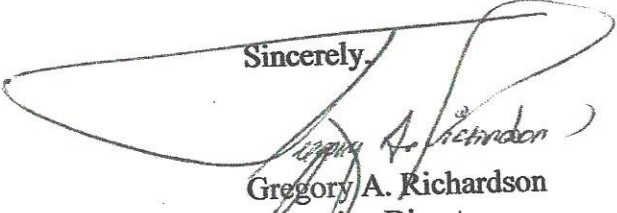
Section .0200 of the code, "Legal Recognition of Indian Groups," will be of general importance to you regarding state recognition of your group as an Indian tribe. Subsection .0207 outlines the procedure to be followed for recognition; subsection .0208 (1) defines "Indian tribe;" subsection .0209 provides specific criteria to be met for recognition as an Indian tribe, as does subsection .0211; and subsection .0214 addresses the required submission of a "roll" of members of a petitioning for recognition as a tribe or organization.

All information and correspondence regarding recognition will be handled by staff at the commission and forwarded to the committee for final review and action. To expedite the process of committee review of petition materials, petitioning groups are requested to provide fifteen (15) copies of all petition documents submitted.

As stated previously, the North Carolina Commission of Indian Affairs is now prepared to proceed the official recognition process with your group. Please respond to our office within 30 days of receipt of this letter and notify us of your group's interest and intent in continuing with the official state recognition process at this time. If your group does not wish to continue at this time, we will proceed with the formal process for other groups that have notified us of their intent to petition for official recognition as American Indian tribes.

The North Carolina Commission of Indian Affairs will gladly offer as much assistance as possible to you regarding the process of state recognition of American Indian tribes. Should you have any questions or need further guidance regarding the recognition process, please do not hesitate to contact our office.

Sincerely,



Gregory A. Richardson
Executive Director

GAR:ECR:

attachment

cc: LeAnn Martin
Recognition Committee
Tuscarora Nation of New York